

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AMERICAN TEXTILE COMPANY, INC.,)	CIVIL DIVISION
)	
Plaintiff,)	No. 2:17-cv-00487-MRH
v.)	
)	
HOLLANDER SLEEP PRODUCTS, LLC)	
)	
Defendant.)	

PLAINTIFF’S MOTION TO DISMISS DEFENDANT’S COUNTERCLAIM

Plaintiff American Textile Company, Inc. (“ATC”), by and through its undersigned counsel, hereby moves this Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss the Counterclaim of Defendant Hollander Sleep Products, LLC (“Hollander”). In the Counterclaim, Hollander alleges that ATC infringes Hollander’s Design Patent No. D507,920, entitled “Pillow Covering” (the “‘920 Patent”) through the sale of an ATC pillow cover design. For the reasons set forth in the accompanying Brief in Support filed contemporaneously herewith, (1) ATC’s product does not infringe Hollander’s Patent, as a matter of law, based on a side-by-side comparison of the designs under the ordinary observer test; or, alternatively, (2) Hollander fails to adequately plead an infringement claim because its Counterclaim contains nothing more than threadbare, conclusory allegations of infringement unsupported by facts giving rise to a plausible inference of infringement. Accordingly, this Court should dismiss the Counterclaim.

WHEREFORE ATC respectfully request that the Court enter the Proposed Order attached hereto dismissing Hollander's Counterclaim with prejudice.

Date: June 15, 2017

Respectfully submitted,

MEYER, UNKOVIC & SCOTT LLP

By: /s/ David G. Oberdick

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CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2017, a true and correct copy of the foregoing was filed electronically.

MEYER, UNKOVIC & SCOTT LLP

/s/ David G. Oberdick
David G. Oberdick, Esquire

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ORDER OF COURT

AND, NOW, to-wit, this ____ day of _____, 2017, upon consideration of Plaintiff's Motion to Dismiss Defendant's Counterclaim, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED, and Defendant's Counterclaim is DISMISSED with prejudice.

BY THE COURT:

Mark R. Hornak
United States District Judge